

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAWNTE JACKSON,

Plaintiff,

v.

KING COUNTY et al.,

Defendants.

CASE NO. 2:23-cv-569

ORDER TO SHOW CAUSE

On May 29, 2024, Plaintiff Dawnte Jackson and King County Defendants jointly moved to “dismiss this case *with prejudice* because the parties agree that the Prison Litigation Reform Act bars this case due to Plaintiff’s failure to exhaust his administrative remedies.” Dkt. No. 20 (emphasis added). The parties stipulated that “Mr. Jackson filed grievance #1221-029 regarding this incident, but he failed to appeal it in accordance with King County Jail grievance procedures.” *Id.*

In cases that are dismissed for failure to exhaust administrative remedies under the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), the general practice is to dismiss *without prejudice*, thereby allowing claimants to re-file after satisfying the exhaustion requirement. *See McKinney v. Carey*, 311 F.3d 1198, 1200-1201 (9th

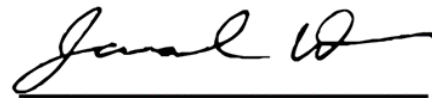
1 Cir. 2002) (“Requiring dismissal without prejudice when there is no presuit  
2 exhaustion... will further... Congressional objectives[.]”); *Ornelas v. Giurbino*, 358  
3 F. Supp. 2d 955, 962 (S.D. Cal. 2005) (“The dismissal, however, is without prejudice.  
4 Thus, Plaintiff may re-file a new action after Section 1997e(a) has been satisfied,  
5 that is after Plaintiff exhausts his administrative remedies as to all Defendants and  
6 any and all claims raised against them.”).

7 Here, Plaintiff and Defendants request this Court to apply the PLRA  
8 exhaustion requirement to dismiss Plaintiff’s claim *with* prejudice. *See* Dkt. No. 20.  
9 Because this request deviates from general practice, the Court ORDERS the parties  
10 to show cause, in writing, within fourteen (14) days of this Order, why dismissal  
11 should be with prejudice.

12 The Clerk of the Court is directed to place this Order to Show Cause on the  
13 Court’s calendar for September 17, 2024.

14 It is so ORDERED.

15 Dated this 3rd day of September, 2024.

16  
17  
18   
19 \_\_\_\_\_  
Jamal N. Whitehead  
United States District Judge